

REMARKS

STATUS OF CLAIMS

In response to the Office Action dated September 22, 2008, claims 1, 5, 8, 22, 24 and 25 have been amended. Claims 1, 4-10, 14, 22-26 and 30 are now active in this application. No new matter has been added. Claims 11-13, 15-21, 27-29, 31 and 32 are withdrawn from consideration as directed to non-elected species.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 112, FIRST PARAGRAPH

Claims 1, 4-10, 14, 22-26 and 30 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. The Examiner maintains that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In the Office Action, the Examiner notes that claims 1 and 22 each require particulars of the embodiment of figures 2 and 3 and the embodiment of figures 2 and 4. Figure 2 is a generic apparatus common to both the method embodiments of figures 3 and 4. The Examiner also maintains that the disclosure does not give any description that the embodiments of figures 2/3 and 2/4 can be combined and used together or even how they would be used together. Therefore, since claims 1 and 22 claim contrary portions of embodiments of figures 2/3 and 2/4, the claims are not enabled as the Examiner maintains that, without further information, one of ordinary skill in the art would not know how to make or use the claimed invention without undue experimentation.

On page 5 of the Office Action, the Examiner provides language of claim 1 that he maintains will overcome the rejection.

To expedite prosecution, independent claim 1 has been amended to delineate:

An image processing apparatus, comprising:
an image data input unit for inputting image data of a plurality of objects including a main subject, ***said image data input unit comprises a means for inputting a parallaxic image, which is generated by capturing said plurality of objects viewed from a plurality of different perspectives;***
a depth distribution information receiving unit for receiving a depth distribution information calculated from said parallaxic image, said depth distribution information being included in said image data and indicating a distance to each of said plurality of objects from the image data input unit;
a range setting unit for ***setting*** a searching range in a depth direction for searching for said main subject from the plurality of objects using the input image data;
a partial image extracting unit for extracting, as a partial image, at least a portion of one of said plurality of objects from said image data based on ***said*** depth distribution information, ***the*** depth direction of said partial image being restricted to said searching range set by said range setting unit; and
a main subject detecting unit for receiving main subject information and detecting whether said partial image is said main subject based on said main subject information, wherein
in searching for said main subject from the plurality of objects, said partial image extracting unit extracts first, as the partial image, at least a portion of said one of said plurality of objects that is closest in distance in the depth direction.

The amendments to claim 1 substantially correspond to the Examiner's suggested language with minor changes made to provide better form and consistency.

In addition, independent claim 22 has been amended to delineate:

An image processing method, comprising:
inputting image data of a plurality of objects ***including a main subject, said inputting*** image data ***includes inputting a parallaxic image, which*** is generated by capturing the plurality of objects viewed from a plurality of different perspectives;
receiving a depth distribution information calculated from said parallaxic image, said depth distribution information being included in said

image data and indicating a distance to each of said plurality of objects from an image data input unit;

setting a searching range *in* a depth *direction* for searching for *said* main subject ***from the plurality of objects using the input*** image data;

extracting, as a partial image, at least a portion of one of said plurality of objects from said image data based on *said* depth distribution information a depth direction of said partial image being restricted to said searching range,; ***and***

receiving main subject information relating to said main subject and detecting whether said partial image is said main subject based on said main subject information, wherein

in searching for said main subject ***from the plurality of objects***, extracting first, as the partial image, at least a portion of said one of said plurality of objects that is closest in distance in the depth direction.

Applicant submits that the invention now recited in amended independent claims 1 and 22 is described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. Therefore, withdrawal of the rejection of claims 1, 4-10, 14, 22-26 and 30 under 35 U.S.C. §112, first paragraph, is respectfully solicited.

REJOINDER

If claims 1, 4-10, 14, 22-26 and 30 are allowed, claims 11-13, 15-21 and 27-29 will depend from allowed claims. In such case, withdrawal of the restriction requirement as to claims 11-13, 15-21 and 27-29 [non-elected species], as well as their allowance are respectfully solicited (see MPEP § 821.04 Rejoinder).

CONCLUSION

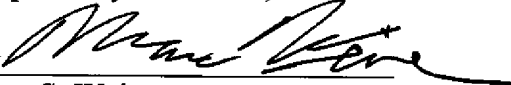
In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Edward J. Wise Reg. No. 34,523 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By 

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